STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY

Proposed general revision of rates,	**)**	
restructuring and price unbundling of	**)**	
bundled service rates, and revision of	**)**	**No.05-0597**
other terms and conditions of service.	**)**	

REPLY BRIEF OF THE UNITED STATES DEPARTMENT OF ENERGY

Lawrence A. Gollomp
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COMES NOW the United States Department of Energy ("DOE") on behalf of its two National Laboratories (Argonne National Laboratory ("Argonne") and Fermi National Laboratory ("Fermi")), and on behalf of other federal executive agencies, by its counsel and hereby submits its Reply Brief in the above-captioned proceeding pursuant to Section 200.800 of the Rules of the Illinois Commerce Commission ("Commission").

III.H. Rate Design

b) Non-Residential

(ii) Very Large Customer Class

Commonwealth Edison Company ("ComEd" or the "Company") argues that, "A separate class for over 10 MW (*i.e*., 10,000 kW) customers is no longer warranted,….". (Initial Brief, p.197) Its reasoning is that "…the underlying cost of service for its four largest demand-based non-residential customer classes was sufficiently close to justify combining these classes." (Ibid.) This conclusion stems from the Company's insistence

in this case on a mechanistic translation of unit embedded costs into rates. The point is that there are many criteria that should be considered in establishing customer classes. One of those criteria is rate continuity. If combining these over 10 MW customers with customers between 1 MW and 10 MW results in rate shock for the over 10 MW group, then there is adequate reason to retain a separate over 10 MW class in order to provide some kind of mitigation of the resulting rate shock. As DOE pointed out in its Initial Brief, the Company's insistence on a mechanistic translation of unit embedded costs into rates, despite the 130 percent increase and 160 percent increase for over 10 MW customers served at standard and high voltages, respectively, makes little sense, given the Company's continued stated objection to the use of embedded cost in the first place. We bring to the Commission's attention that, true to form, the Company has again in its Initial Brief unequivocally stated its preference for marginal costs and its right to propose the use of marginal costs in future proceedings. (ComEd's Initial Brief, pp. 183-184,186.)

The IIEC, BOMA and DOE each proposed that the Distribution Facilities Charge (DFC) for customers with loads in excess of 10 MW be determined by applying the average percentage increase allowed ComEd to the rate that would go into effect in June 2006. This would result in percentage increases similar to the percentage increases that are being proposed for customers with loads between 1 and 10 MW. On page 200 of its Initial Brief the Company attempts to denigrate these proposals by calling them a "…blatant attempt to maintain a subsidy…", and suggesting that there is no compelling evidence to do so. In fact, these proposals represent a more comprehensive accounting of all of the criteria that should be used to set class revenue

increases, only one of which is the cost of service.

These recommendations are an attempt to account for the rate shock for customers with loads in excess of 10 MW that results from a mechanistic translation of rates from embedded unit costs, which the Company doesn't even believe should be used. In fact, the Company itself backs away from this mechanistic translation of embedded costs to rates for those above 10 MW customers in response to the concerns about rate shock that were raised by witnesses for these parties. Specifically, as an alternative, ComEd witness Crumrine has proposed moving the DFC for above 10 MW customers served at standard voltages half way toward the estimated unit embedded cost to mitigate the rate shock for these customers. (ComEd Ex. 40.0; pages 7-8: lines 146-152.) Thus, the issue between the Company and the IIEC, BOMA and DOE is not whether some form of moderation should be exercised in setting the DFC for above 10 MW customers, but rather how far toward the Company's estimated embedded unit cost the Commission should go.

DOE has proposed that, if the Commission wishes to make greater progress toward cost-based rates than would result from an average percentage increase for above 10 MW customers, then that average percentage increase can be augmented by another 5 percentage points. (DOE Ex. 1.0; pages 10-11; lines 259-262. Also see DOE Initial Brief, page 12.) Thus, if the average percentage increase were 25 percent, this approach would result in a 30 percent increase for these standard voltage customers, or a resulting DFC of $3.04/kW. This compares with the Company's original recommendation of $5.45/kW and the Company's "half-way toward cost" proposal of $3.86/kW, which still results in an onerous increase of 65 percent increase. Of course,

the Commission is not limited to these particular options. The Commission could determine that adequate progress toward cost would require 10 percentage points above the average which, in this case, would result in a 35 percent increase above the current charge, or a DFC of $3.16/kW. Or the Commission might conclude that the increase should be 15 percentage points above the average which, in this case, would result in a 40 percent increase for these customers, or a DFC of $3.28/kW. In short, the Commission can and should exercise judgment regarding how far to move toward cost of service and to what extent the resulting rate shock should be mitigated. To accept the Company's slavish, mechanistic translation of embedded unit costs into rates would be tantamount to abdicating the Commission's responsibility to exercise reasonable judgment in setting just and reasonable rates.

(iii) High Voltage Class

The Company's proposal for a single rate for the High Voltage Class is unreasonable and runs counter to the very cost-based criterion that the Company is promoting in this case.

First, the Company has failed to extend its own mitigation (50 percent toward cost) proposal to the high voltage customers above 10 MW who, under the Company's proposal, would experience an even higher 160 percent increase than standard voltage customers with loads in excess of 10 MW (133 percent). (DOE Ex.1.0; page 4, lines 64-73.) If the Commission sees fit to moderate the increase to standard voltage customers with loads in excess of 10 MW, there is no reasonable basis on which to deny this same relief to high voltage customers with loads above 10 MW. It is no more difficult to retain an above 10 MW class of high voltage customers than it is to retain a class of standard

voltage customers with loads in excess of 10 MW. The Company's argument that special treatment is not appropriate for these large high voltage customers because they pay less than 1/2 cent per kWh for delivery service (ComEd Initial Brief, p. 204) has no bearing on whether similar relief should be extended to high voltage customers. As the Company, itself, points out in its Initial Brief (p.203): "These customers do not utilize a significant portion of ComEd's overall distribution system and, therefore, have a different cost of service than customers that utilize the ComEd distribution system at levels below 69,000 volts." Add to that the fact that these customers tend to have very high load factors, and one can only conclude that the charge for delivery service per kWh should be very much lower than for customers served at lower voltages.

The Commission should extend any mitigation treatment provided for standard voltage customers above 10 MW to high voltage customers with loads above 10 MW. If the Commission accomplishes that with a variant of the IIEC, BOMA or DOE average increase proposal, then the proper starting place is the net charge of $0.8347/kW-month that will apply in June 2006 after the deductions of the credits for both Rider HVDS and Rider 8. (DOE Ex.1.0; page11, lines 265-269.)

The Company's High Voltage Class proposal also runs contrary to its own commitment in this case to establish rates that are based on embedded costs. ComEd states at page 203 of its Initial Brief "...that these customers [high voltage customers] will be treated the same under ComEd's proposal as they are today." This is flatly incorrect. The establishment of the High Voltage Class as proposed by the Company embodies significant intra-class cross subsidies. Thus, the definition of this class does not meet the standard that the Company touts at page 189 of its Initial Brief:that "Proper

customer class delineations avoid, to the extent possible, the creation of intra-class subsidies."

Under its class definition, the Company would extend high voltage rate treatment to loads served at lower voltages, simply to streamline its billing process. That is, low voltage load customers that also have high voltage loads would be afforded the high voltage rate. Today, customers with both high and standard voltage loads are billed at different rates. By redefining the low voltage loads of these customers as "high voltage" loads, the Company guarantees that there will be cross-subsidies within the class from those customers with no or very small standard voltage loads to those customers with relatively large standard voltage loads. DOE demonstrated in its Initial Brief at page 15 that the amounts of these cross-subsidies are not trivial. For example, at the Company's proposed cost of service, that would amount to approximately $300,000 a year for the DOE Argonne National Laboratory.

DOE urges that the Commission correct this error by separating the high voltage loads from standard voltage loads. The standard voltage loads should be included in the appropriate standard voltage customer class and billed accordingly, leaving only true high voltage loads remaining in the high voltage class.

Respectfully submitted,

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